

REMARKS

The present application relates to inbred maize plant and seed PHB6R. Claims 1-30 are pending in the present application. Claims 1, 6, 7, 13, 21, 22, 24, 26 and 29 have been amended in the present response. No new matter has been added by way of amendment. Applicants respectfully requests consideration of the claims in view of the following remarks.

Detailed Action***A. Specification***

The Examiner has objected to the specification at page(s) 36, 37, 38, 45 and 48 for the "incorporation of essential material by reference to a foreign application or patent, or to a publication" as improper. The Examiner states that the "Applicants is required to amend the disclosure to include the material incorporated by reference".

Applicants note the objection but respectfully submit according to MPEP §608.01(p) only "essential material" from a foreign patent or application may not be incorporated. Applicants respectfully submit that the Examiner has not identified what material is "essential material" that requires incorporation into the current specification. In addition, Applicants respectfully submit that according to MPEP §2163.07(b)"[i]nstead of repeating some information contained in another document, an application may attempt to incorporate the content of another document or part thereof by reference ...[t]he information incorporated is as much a part of the application as filed as if the text was repeated in the application, and should be treated as part of the text of the application as filed". Applicants respectfully request the objection to the specification be withdrawn.

B. Claim Objections

Applicants acknowledge the objection of claims 1, 6, 7, 13, 22 and 26.

Applicants have now amended claims 1, 6, 7, 13, 22 and 26 to incorporate the Examiner's suggested changes, thereby making these objections moot. Applicants thank the Examiner for pointing out these informalities.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 24, 25, 29 and 30 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention.

Claim 24 is indefinite because at step (a) Applicants claim crossing "PHB6R plants" with "plants of another maize line" that comprises a desired trait selected from a group of traits wherein it is unclear if the "plants of another maize line" comprise individuals with different traits. The Examiner states the metes and bounds of the invention are unclear. The Examiner also states that claim 25 is indefinite because it does not obviate the indefiniteness of claim 24. Claims 29 and 30 are indefinite for the same reason as claim 24.

Although not acceding to the Examiner's rejection, in an effort to expedite prosecution Applicants have now amended claims 24 and 29 to include --a PHB6R plant-- with --a plant of another maize line--, as suggested by the Examiner, thus alleviating this rejection. Applicants point out that if a group of plants with different traits are crossed, each individual cross within that group will be within the scope of the claims as amended.

Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 29 and 30 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicants have amended claim 29 to include –stearoyl-ACP desaturase – and delete "stearyl-ACP desaturase" as supported by the specification on page 38. Applicants have also amended claim 21 for consistency to include –stearoyl-ACP desaturase – and delete "stearyl-ACP desaturase" as supported by the specification on page 38. Applicants respectfully submit this rejection is now alleviated.

Summary

Applicants acknowledge that claims 2-5, 8-12, 14-21, 23, 27 and 28 are allowed.

Applicants further acknowledge that the claims are deemed free of the prior art. The Examiner further states the prior art fails to teach or fairly suggest maize inbred plant PHB6R, or methods of using it. This clearly indicates that maize inbred line PHB6R is considered to be distinguishable from the prior art for the purposes of novelty and non-obviousness.

Conclusion

In conclusion, Applicants submit in light of the above amendments and remarks, the claims as amended are in a condition for allowance, and reconsideration is respectfully requested. If it is felt that it would aid in prosecution, the Examiner is invited to contact the undersigned at the number indicated to discuss any outstanding issues.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 16-1852.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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